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17 *Counsel for Defendants*

18  
19 IN THE UNITED STATES DISTRICT COURT  
20 FOR THE DISTRICT OF NEVADA

21 RUTHANN JOHNSTON,

22 Plaintiff,

23 v.

24 C. R. BARD, INCORPORATED and BARD  
25 PERIPHERAL VASCULAR,  
26 INCORPORATED,

27 Defendants.

28 CASE NO. 3:20-cv-00069-MMD-BNW

29  
30 STIPULATION AND ORDER TO  
31 EXTEND STAY OF DISCOVERY  
32 AND ALL PRETRIAL DEADLINES  
33 (THIRD REQUEST)

34 Plaintiff Ruth Ann Johnston (“Plaintiff”) and Defendants C. R. Bard, Inc. and Bard Peripheral  
35 Vascular, Inc. (“Defendants” and collectively with Plaintiff, the “Parties”), pursuant to Fed. R. Civ.  
36 P. 26(c) and (d) and LR IA 6-1, respectfully request that this Court temporarily stay discovery and all  
37 pretrial deadlines, as set forth in the revised Discovery Plan (Dkt. 56), until **May 27, 2021** while the  
38 Parties finalize settlement. In support thereof, the Parties state as follows:

39 // /

1       1. This case was part of the Multi-District Litigation proceeding *In re: Bard IVC Filters*  
 2 *Product Liability Litigation*, pending before Senior Judge David Campbell of the District of Arizona.

3       2. Plaintiff alleges experiencing complications following the implantation of a Bard  
 4 Inferior Vena Cava (“IVC”) filter, a prescription medical device. She has asserted three strict  
 5 products liability counts (manufacturing defect, information defect (failure to warn) and design  
 6 defect), six negligence counts (design, manufacture, failure to recall/retrofit, failure to warn, negligent  
 7 misrepresentation and negligence per se), two breach of warranty counts (express and implied), two  
 8 counts sounding in fraud (fraudulent misrepresentation and fraudulent concealment), an unfair and  
 9 deceptive trade practices count, and a claim for punitive damages.

10      3. Defendants deny Plaintiff’s allegations.

11      4. After four years, the completion of general issue discovery, and the conduct of three  
 12 bellwether trials, Judge Campbell ordered that cases, which were not settled or were not close to  
 13 settling, be transferred or remanded to the appropriate jurisdictions around the country for case-  
 14 specific discovery and trial. As a part of that process, he established a “track” system, wherein certain  
 15 cases were placed on tracks either to finalize settlement paperwork, continue settlement negotiations,  
 16 or be remanded or transferred.

17      5. This case was transferred to this Court on January 11, 2019 because at the time it was  
 18 not close to settling. But, since that date, the Parties have engaged in further settlement discussions  
 19 and have reached a global settlement in principle of this and other cases involving Bard Inferior Vena  
 20 Cava filters that have been filed across the nation, and a settlement agreement is in place. The Parties  
 21 have been working diligently and in good faith to finalize all terms and payments pursuant to that  
 22 settlement.

23      6. The Parties report that they continue to work diligently toward finalizing the settlement  
 24 by working to obtain releases and resolve liens, but due to complexity and volume, they anticipate  
 25 that completion of the settlement process will take approximately 90 days. Accordingly, the Parties  
 26 request a 90-day extension of the stay in this matter.

27      7. The Parties are waiting on final paperwork from this Plaintiff and many others, to  
 28 complete the settlement process.

1       8. Neither party will be prejudiced by this extension and this will prevent unnecessary  
 2 expenditures of the Parties and of judicial resources.

3       9. Accordingly, the Parties request that this Court issue an order staying discovery and  
 4 pretrial deadlines until **May 27, 2021** to allow the Parties time to finalize settlement. This will  
 5 prevent unnecessary expenditures of the Parties and judicial resources as well as place this case on a  
 6 similar “track” as the MDL cases Judge Campbell determined should continue settlement dialogue.

7       10. A district court has broad discretion over pretrial discovery rulings. *Crawford-El v.*  
 8 *Britton*, 523 U.S. 574, 598 (1998); *accord Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89  
 9 (11th Cir. 2013); *Thermal Design, Inc. v. Am. Soc'y of Heating, Refrigerating & Air-Conditioning*  
 10 *Eng'rs, Inc.*, 755 F.3d 832, 837 (7th Cir. 2014); *see also Cook v. Kartridg Pak Co.*, 840 F.2d 602,  
 11 604 (8th Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance  
 12 of the orderly administration of justice.”).

13       11. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope  
 14 of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do  
 15 not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to the  
 16 cutoff date. *Sofo v. Pan-Am. Life Ins. Co.*, 13 F.3d 239, 242 (7th Cir. 1994); *see also, Wichita Falls*  
 17 *Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 918 (5th Cir. 1993) (finding that a “trial judge’s  
 18 decision to curtail discovery is granted great deference,” and noting that the discovery had been  
 19 pushed back a number of times because of pending settlement negotiations).

20       12. Facilitating the efforts of parties to resolve their disputes weighs in favor of granting  
 21 a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at \*2-3 (D. Nev.  
 22 July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and  
 23 permit them to mediate global settlement. The Court granted the stay, finding the parties would be  
 24 prejudiced if required to move forward with discovery at that time and a stay would potentially  
 25 prevent an unnecessary complication in the case. *Id.* at \*3. Here, the Parties have reached a settlement  
 26 in principle.

27       13. The Parties agree that the relief sought herein is necessary to handle the case in the  
 28 most economical fashion and to ensure that the Court’s time and resources are not expended on a

1 matter that may not remain on its docket, yet will allow sufficient time to finalize settlement in this  
2 matter.

3 **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of this  
4 stipulation to stay discovery and all pretrial deadlines until **May 27, 2021** to allow the Parties to  
5 finalize settlement.

6 **IT IS SO STIPULATED.**

7 Dated this 26<sup>th</sup> day of February 2021.

8 DALIMONTE RUEB STOLLER, LLP

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18 *Counsel for Defendants*

19 **IT IS SO ORDERED.**

20 

21 BRENDAG WEKSLER  
United States Magistrate Judge

22 Dated March 3, 2021.